

REMARKS

A. BACKGROUND

The present Amendment is in response to the Office Action mailed June 26, 2009. Claims 26-27, 29-32, and 35-46 were pending and rejected in view of cited art.¹ Claims 26, 35, 37, 39, 41, and 44-45 are amended. Claims 26-27, 29-32, and 35-46 are now pending in view of the above amendments.²

Reconsideration of the application is respectfully requested in view of the above amendments to the claims and the following remarks. For the Examiner's convenience and reference, Applicant's remarks are presented in the order in which the corresponding issues were raised in the Office Action.

Please note that the following remarks are not intended to be an exhaustive enumeration of the distinctions between any cited references and the claimed invention. Rather, the distinctions identified and discussed below are presented solely by way of example to illustrate some of the differences between the claimed invention and the cited references. In addition, Applicant requests that the Examiner carefully review any references discussed below to ensure that Applicant's understanding and discussion of the references, if any, are consistent with the Examiner's understanding.

B. SPECIFICATION AMENDMENT

The specification has been amended to correct a typographical error in Paragraph [0030].

C. CLAIM OBJECTIONS

The Examiner objected to claim 44 as being of improper dependent form for failing to further limit the subject matter of a previous claim. In response, claim 44 has been amended to further limit the subject matter of claim 43. Applicant respectfully requests removal of this objection.

In addition, the Examiner objected to claim 41 because there is inconsistency in the claim between the use of "cross-section" and "cross-sectional" with regard to the diameter. In

¹ Although the prior art status of the cited art is not being challenged at this time, Applicant reserves the right to challenge the prior art status of the cited art at any appropriate time, should the need arise. Accordingly, any arguments and amendments made herein should not be construed as acquiescing to any prior art status of the cited art.

response, claim 41 has been amended to recite, in part, "a fitting . . . having a second cross-sectional diameter greater than the first cross-sectional diameter." Applicant respectfully requests removal of this objection.

D. REJECTION UNDER 35 U.S.C. § 112, FIRST PARAGRAPH

The Office Action rejected claim 44 under 35 U.S.C. § 112, first paragraph. With respect to claim 44, the Examiner rejects the claims as failing to comply with the enablement requirement. In response, claim 44 has been amended to remove the reference to "a balloon." Applicant respectfully requests removal of the rejection under § 112, first paragraph.

E. PRIOR ART REJECTIONS

I. REJECTION UNDER 35 U.S.C. §102(B)

The Office Action rejected claims 26, 27, 29, 30, 32, 35-38, and 40-44 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,599,326 (*Carter*). Because *Carter* does not disclose, teach, or suggest each and every element of the rejected claims, Applicant respectfully traverses this rejection in view of the following remarks.

Claims 26, 35, and 41 have been amended to recite, in part, "a fluid impermeable covering extending from the bending section toward but not to the distal end of the catheter shaft." Applicant respectfully submits that *Carter* does not disclose, teach, or suggest this claim element.

Rather, the Office Action cited *Carter* as disclosing "a fluid impermeable covering (240) disposed upon the bending section to seal the bending section," (Office Action, page 4). Although, *Carter* discloses that "the catheter body or section (200) has the inner helically cut polymeric inner tubing stiffener member (202) and the outer polymeric layer (204)," (col. 5, ll. 49-51), the Office Action has not cited, nor has Applicant found, any portion of *Carter* that discloses, teaches, or suggests that *Carter*'s "outer covering (240)" "extend[s] from the bending section toward but not to the distal end of the catheter shaft," as recited, in part, by claims 26, 35, and 41. Therefore, Applicant respectfully submits that *Carter* does not disclose, teach, or suggest each and every element of claims 26, 35, and 41.

² Support for the claim amendments and/or new claim(s) can be found throughout the specification and/or drawings as originally filed.

In addition, claim 35 has been amended to recite, in part, "a proximal portion of the fluid impermeable covering located within the passageway of the fitting." The Office Action has not cited, nor has Applicant found, any portion of *Carter* that discloses, teaches, or suggests that any portion of *Carter*'s "outer covering 240" is "located within the passageway of the fitting," as recited, in part, by claim 35. Therefore, Applicant respectfully submits that *Carter* does not disclose, teach, or suggest each and every element of claim 35.

Furthermore, regarding claim 41, the Office Action asserts that *Carter* teaches "that the catheter shaft has a first cross-sectional diameter (106, see Fig. 1) and the fitting has a second cross-sectional diameter greater than the first-cross sectional diameter," (Office Action, page 4). In support of this assertion, the Office Action further asserts that "the transition portion as described above [i.e. 'widened portion of fitting 110 which connects to proximal portion 106'] and the most proximal portion of the fitting both have larger cross-sectional diameters than portion 106," (*id.* citing Fig. 1). From this assertion, it appears that the Office Action is asserting that the outer diameters of the widened portion of fitting 110 and the proximal portion of fitting 110 are larger than the outer diameter of proximal portion 106.

However, claim 41 has been amended to recite, in part, "a catheter shaft having . . . a first outer cross-sectional diameter" and "a fitting . . . having a second inner cross-sectional diameter greater than the first outer cross-sectional diameter." The Office Action has not cited, nor has Applicant found, any portion of *Carter* that discloses, teaches, or suggests that the inner cross-sectional diameter of the fitting is "greater than the" outer cross-sectional diameter of the proximal portion 106. Therefore, Applicant respectfully submits that *Carter* does not disclose, teach, or suggest each and every element of claim 41.

Because *Carter* fails to disclose, teach, or suggest "a fluid impermeable covering extending from the bending section toward but not to the distal end of the catheter shaft," as recited, in part, by claims 26, 35, and 41; "a proximal portion of the fluid impermeable covering located within the passageway of the fitting," as recited, in part, by claim 35; and "a catheter shaft having . . . a first outer cross-sectional diameter" and "a fitting . . . having a second inner cross-sectional diameter greater than the first outer cross-sectional diameter," as recited, in part, by claim 41, Applicant respectfully submits that *Carter* does not disclose, teach, or suggest each and every element of the claimed invention. Therefore, Applicant respectfully requests that the rejection of claims 25, 35, and 41 under Section 102 be removed. As claims 27, 29, 30, 32, 36-

38, 40, and 42-44 depend from claims 25, 35, and 41, respectively, Applicant respectfully requests that the rejection of these claims under Section 102 also be removed.

II. REJECTION UNDER 35 U.S.C. § 103

The Office Action rejected claims 31, 39, and 45 under 35 U.S.C. § 103(a) as being unpatentable over *Carter*. Applicant traverses the Examiner's rejection for obviousness on the grounds that *Carter* fails to disclose, teach, or suggest each and every element of the rejected claims.

As shown above, *Carter* fails to disclose, teach, or suggest "a fluid impermeable covering extending from the bending section toward but not to the distal end of the catheter shaft," as recited, in part, by claims 26, 35, and 41; "a proximal portion of the fluid impermeable covering located within the passageway of the fitting," as recited, in part, by claim 35; and "a catheter shaft having . . . a first outer cross-sectional diameter" and "a fitting . . . having a second inner cross-sectional diameter greater than the first outer cross-sectional diameter," as recited, in part, by claim 41. As claims 31, 39, and 45 depend from claims 25, 35, and 41, respectively, Applicant respectfully requests that the rejection of these claims under Section 103 also be removed.

F. CONCLUSION

In view of the foregoing, Applicant respectfully submits that the other rejections to the claims are now moot and do not, therefore, need to be addressed individually at this time. It will be appreciated, however, that this should not be construed as Applicant acquiescing to any of the purported teachings or assertions made in the last action regarding the cited art or the pending application, including any official notice. Instead, Applicant reserves the right to challenge any of the purported teachings or assertions made in the last action at any appropriate time in the future, should the need arise. Furthermore, to the extent that the Examiner has relied on any Official Notice, explicitly or implicitly, Applicant specifically requests that the Examiner provide references supporting the teachings officially noticed, as well as provide the required motivation or suggestion to combine references with the other art of record.

For at least the foregoing reasons, Applicant respectfully submits that the pending claims are neither anticipated by nor made obvious by the art of record. In the event that the Examiner finds any remaining impediment to a prompt allowance of this application that may be clarified through a telephone interview, the Examiner is requested to contact the undersigned attorney.

Dated this 28th day of September, 2009.

Respectfully submitted,

/Paul N. Taylor, Reg.# 57271/

PAUL N. TAYLOR
Registration No. 57,271
Attorney for Applicant
Customer No. 57360
Telephone No. 801.533.9800

FDR: PNT: kdj
2515537_1.DOC